

25 and 27-31 were rejected under 35 U.S.C. §112, second paragraph. Claims 15, 17-19, 21-25 and 27-31 were rejected under the judicially created Doctrine of Obviousness-Type Double Patenting as being unpatentable over claims of U.S. Patent No. 5,700,866, hereinafter referred to as "Winter '866". To the extent that these amendments do not overcome the rejections, the applicants respectfully traverse these rejections.

Rejection of Claim 30

Claim 30 was rejected under 35 U.S.C. §112, first paragraph. The Examiner stated that claim 30 contained new matter. The applicants respectfully disagree. The applicants again believe that support for claim 30 can be found in the examples, in particular examples 1 and 23 for the ranges. In Example 23, the copolymer contained 2.5 % by weight of ethylene distributed randomly. Therefore, the ethylene propylene copolymer contained 97.5 % by weight of propylene. In Example 1, the molding composition was propylene homopolymer with no ethylene. Therefore the applicants again believe that claim 30 is supported by Examples 1 and 23. For the above reasons, this rejection should be withdrawn.

Rejection of Claims 15, 17-19, 21-25 and 27-31

Claims 15, 17-19, 21-25 and 27-31 were rejected under 35 U.S.C. §112, first paragraph. The DSC spectrum is determined with a heating/cooling rate of 20°C. Again, this information is sufficient to a person of ordinary skill in the art to repeat the measurement (*see* the previously submitted copy of pages 589 and 590 of Ser van der Ven, "Polypropylene and other Polyolefins"). The first heating and cooling step of the DSC measurement give the standardized thermal history, which is necessary to obtain reliable data. The amended claim 17 then states that "the composition is characterized by a broad, bimodal or multimodal melting range". It is clear that the melting range is the range of the DSC spectrum which showing a maximum in the curve, the half-intensity width of the

melting range is the width at exactly half the height of the maximum of the curve and the width at quarter range height is the width at exactly the quarter height of the curve. The different melting points of the at least two polyolefins are clearly related to the melting points of the components. See page 3, lines 20-25 of the specification. See also page 2, lines 26-30 of the specification. The applicants believe that this reference is more than an opinion as alleged by the Examiner. This reference confirms what is known to of ordinary skill in the art.

and
41
rejection

The Court of Custom Appeals stated at page 369 In re Marzocchi and Horton, 169 USPQ 367, 369 (CCPA 1971),

"The first paragraph of §112 requires nothing more than objective enablement. How such a teaching is set forth, either by the use of illustrative examples or by broad terminology, is of no importance." (emphasis added)

The applicants believe that it is clear from their specification, that there is adequate support and enablement. See page 3, lines 20-25 of the specification. See also page 2, lines 26-30 of the specification.

The Court of Custom Appeals further stated at page 369 in In re Marzocchi and Horton, 169 USPQ 367, 369 (CCPA 1971),

As a matter of Patent Office practice, then, a specification disclosure which contains a teaching of the manner and process of making and using the invention in terms which correspond in scope to those used in describing and defining the subject matter sought to be patented must be taken as in compliance with the enabling requirement of the first paragraph of §112 unless there is reason to doubt the objective truth of the statements contained therein which must be relied on for enabling support. (In re Marzocchi and Horton, 169 USPQ 367, 369 (CCPA 1971). (emphasis added)

The applicants do not believe that there is any reason to doubt the objective truth of the statements presented in the original declaration filed with the application. For the above reasons, this rejection should be withdrawn.

§112, Second Paragraph Rejection

Claims 15, 17-19, 21-25 and 27-31 were rejected under 35 U.S.C. §112, second paragraph. The applicants believe that the claims as amended are in compliance with 35 U.S.C. §112, second

paragraph. For the above reasons this rejection should be withdrawn.

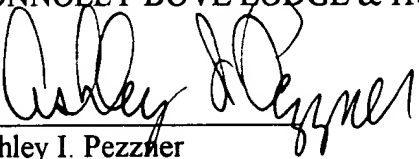
Double Patenting Rejection

Claims 15, 17-19, 21-25 and 27-31 were rejected under the judicially created Doctrine of Obviousness-Type Double Patenting as being unpatentable over claims of Winter '866. The applicants will submit a Terminal Disclaimer to obviate this rejection, once the other rejections have been withdrawn.

A one month extension fee has been paid. If there are any additional fees due in connection with the filing of this response, including any fees required for an additional extension of time under 37 C.F.R. 1.136, such an extension is requested and the Commissioner is authorized to charge or credit any overpayment to Deposit Account No. 03-2775.

For the reasons set forth above, Applicants believe that the claims are patentable over the references cited and applied by the Examiner and a prompt and favorable action is solicited. The applicants believe that these claims are in condition for allowance, however, if the Examiner disagrees, the applicants respectfully request that the Examiner telephone the undersigned at (302) 888-6270.

Respectfully submitted,
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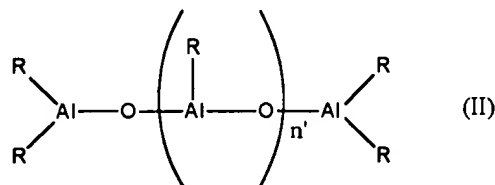
APPENDIX I

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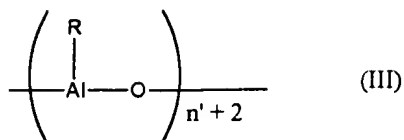
17. A process for the preparation of a polyolefin molding composition comprising at least two polyolefinic components, wherein the composition is characterized by a broad, bimodal, or multimodal melting range in a DSC spectrum determined with a heating/cooling rate 20° C/min having a maximum[and a melting peak,] wherein the melting range maximum is between 120 and 165°C, the half-intensity width of the melting maximum[peak] is broader than 10°C and the width determined at quarter maximum[peak] height is greater than 15°C, wherein such process comprises the direct polymerization of propylene or copolymerization of propylene with olefins of the formula $R^aCH = CHR^b$, in which R^a and R^b are identical or different and are a hydrogen atom or an alkyl radical having [1] 2 to 14 carbon atoms, or R^a and R^b [~~together with the atoms connecting them, form a ring,~~] and wherein the polymerized ethylene content of the resulting polyolefin composition is from 0 to 2.5% by weight,

to at least two polyolefins of different melting points, wherein the melting points of the polyolefins must differ by at least 5° C, and wherein the polymerization is carried out at a temperature of from -60 to 200°C, and a pressure of from 0.5 to 100 bar, in solution, in suspension or in the gas phase, in the presence of a catalyst, wherein the catalyst comprises

(A) at least two racemic or s-symmetric metallocenes as transition-metal components and an aluminoxane of the formula II



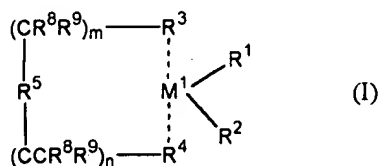
and/or of the formula III



where in the formulae II and III, the radicals R may be identical or different are a C₁-C₆-alkyl group, a C₁-C₆-fluoroalkyl group, a C₆-C₁₈-aryl group, a C₆-C₁₈-fluoroaryl group or hydrogen, and n' is an integer from 0 to 50, and the aluminoxane component may additionally contain a compound of the formula AlR₃, or

(B) at least two racemic or s-symmetric metallocenes as transition-metal components and a salt-like compound of the formula R_xNH_{4-x} or of the formula R₃PHBR'₄ wherein x is 1, 2 or 3, R is identical or different and is alkyl or aryl, and R' is aryl, which may also be fluorinated or partly fluorinated,

where the transition-metal component used comprises at least two metallocenes of the formula I:



in which

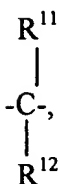
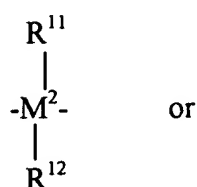
M¹ is Zr or Hf,

R¹ and R² are identical or different and are a hydrogen atom, a C₁-C₁₀-alkyl group, a C₁-C₁₀-alkoxy group, a C₆-C₁₀-aryl group, a C₆-C₁₀-aryloxy group, a C₂-C₁₀-alkenyl group, a C₇-C₄₀-arylalkyl group, a C₇-C₄₀-alkylaryl group, a C₈-C₄₀-arylalkenyl

group, or a halogen atom,

R^3 and R^4 are identical or different and are indenyl, cyclopentadienyl or fluorenyl which are optionally substituted with substituents as defined for R^{11} and R^{12} and where the substituents are identical or different or form together with the atoms connecting them a ring,

R^5 is



where R^{11} and R^{12} are identical or different and are a hydrogen atom, a halogen atom, a C_1 - C_{10} -alkyl group, a C_1 - C_{10} -fluoroalkyl group, a C_6 - C_{10} -aryl group, a C_6 - C_{10} -fluoraryl group, a C_1 - C_{10} -alkoxy group, a C_2 - C_{10} -alkenyl group, a C_7 - C_{40} -arylalkyl group, a C_8 - C_{40} -arylalkenyl group or a C_7 - C_{40} -alkylaryl group, or R^{11} and R^{12} together with the atoms connecting them, form a ring,

M^2 is silicon or germanium,

R^8 and R^9 are identical or different and are as defined for R^{11} and

m and n are identical or different and are zero or 1 and wherein for at least one of the at least two metallocenes R^3 is a substituted indenyl or an optionally substituted fluorenyl.

18. (Amended Once) The process as claimed in claim 17, wherein the process comprises the direct polymerization of propylene or copolymerization of propylene with an olefin selected from the group consisting of ethylene, 1-butylene, 1-hexene, 4-methyl-1-pentene, 1-octene[, norbornene, norbornadiene] and mixtures thereof.
24. (Once amended) The process as claimed in claim 17, wherein R^1 and R^2 are identical or

different and are a hydrogen atom, a C₁-C₃- alkyl group, a C₁-C₃-alkoxy group, a C₆-C₈-aryl group, a C₆-C₈-aryloxy group, a C₂-C₄-alkenyl group, a C₇-C₁₀-arylalkyl group, a C₇-C₁₂-alkylaryl group, a C₈-C₁₂-arylalkenyl group, or chlorine R¹¹, R¹² and R¹³ are identical or different and are a hydrogen atom, a C₁-C₄- alkyl group, CF₃ group, a C₁-C₄-alkoxy group, a C₆-C₈-aryl group, pentafluorophenyl group, a C₂-C₄-alkenyl group, a C₇-C₁₀-arylalkyl group, a C₇-C₁₂-alkylaryl group[,] or a C₈-C₁₂-arylalkenyl group[, or R¹¹ and R¹² together with the atoms connecting them, form a ring].

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